

REMARKS / ARGUMENTS

In response to the final Office Action mailed November 29, 2007, the Examiner's claim rejections have been considered. Claim 21 has been canceled and claim 25 has been amended to correct the antecedent basis of "[a] tear bar." Therefore, claims 1-3, 5-7, 19, 20, and 22-29 are currently pending in the application. Applicants respectfully traverse all rejections regarding all pending claims and earnestly solicit allowance of these claims.

1. Claim Rejections – 35 U.S.C. § 103(a)

The Examiner rejected claims 1-3, 5-7 and 19-29 under 35 U.S.C. § 103(a) as being unpatentable over Rutherford (U.S. Patent No. 5,505,551) in view of Horniak et al. (U.S. Patent No. 5,833,104). Applicants respectfully traverse this rejection. For brevity, only the bases for the rejection of the independent claims are traversed in detail on the understanding that the dependent claims are also patentably distinct over the cited references, as they depend directly from their respective independent claims. Nevertheless, the dependent claims include additional features that, in combination with those of the independent claims, provide further, separate, and independent bases for patentability.

Applicants respectfully submit that Rutherford and Horniak et al., alone or in combination, do not teach, suggest, or disclose a tear bar with "an integrally formed member having a substantially semi-circular lateral cross-section," as required by claim 1. As shown in FIG. 4A, among other figures, Rutherford discloses a thin walled transverse burster 38 with an arcuate shape. See Rutherford, col. 6, lines 58-59. The lateral cross-section of the transverse burster 38 is not substantially semi-circular. Also, it would not have been an obvious modification because replacing the transverse burster 38 in Rutherford with a tear bar having a semi-circular lateral cross-section could render the portable device in Rutherford unsatisfactory for separating individual items from a continuous perforated sheet as disclosed in the objects listed in the Summary Of The Invention section of Rutherford.

Accordingly, Applicants respectfully submit that the 35 U.S.C. § 103(a) rejection of claims 1, 2-3, 5-7, and 19 has been overcome.

Further, independent claims 1, 20 and 25 each include the limitation that the tear bar includes a center portion with a diameter less than the diameter of the first and second side portions. As discussed above, Rutherford discloses an arcuately shaped transverse burster 38 as shown in FIG. 4A, which appears to be formed of a continuous wall with a uniform thickness. The center portion of the transverse burster 38 of Rutherford has the same width or thickness as the first and second side portions. Even in the embodiment of the transverse burster 38C shown in FIG. 14, the center portion has the same diameter as the side portions, because the diameter of an arcuate shape is from the top edge of the arcuate shape to the bottom edge of the arcuate shape. In other words, the diameter of the arcuately shaped transverse buster is the distance between reference numerals 100 and 98 shown in FIG. 4A. The transverse burster 38 of Rutherford does not disclose a tear bar having a center portion with a “diameter” less than the “diameter” of the first and second side portions. Therefore, all pending claims are allowable over the cited art since all of the limitations of the pending claims are not disclose or suggested in the cited references.

Also, claims 1, 20, and 26 include the limitation that “at least one of the first or second side portions comprises a roughened surface.” As the Examiner states, “Rutherford doesn’t show a roughened surface,” and states that it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the side portions of Rutherford by providing a roughened surface as taught by Homiak et al. Applicants submit that the proposed modification of Rutherford is improper because it would render the device of Rutherford unsatisfactory for its intended purpose. See MPEP §2143.01.

Rutherford discloses a device for separating individual items from a continuous perforated sheet and placing the items in a sequentially ordered stack. See col. 4, lines 48-51 of Rutherford. “By processing the perforated sheet completely, this device creates a significant time savings, as office personnel are relieved of the tedious and time-consuming task of tearing off edge strips and separating the individual items by hand.” See col. 2, lines 11-15 of Rutherford. Therefore, it is clear that the device of Rutherford, which separates multiple sheets of paper from a continuous perforated sheet at a single time, differs from the device of Homiak et al., which is a braking system for preventing unauthorized removal of single tickets. Rutherford shows that the transverse burster 38 being a smooth surface (see

FIG. 4A and 14A), and Rutherford also discloses that the separation of sheets of paper is completed as the perforated sheet continues to move across the transverse burster. See Abstract of Rutherford. As shown in FIGS. 4A and 4B of Rutherford, the start point 104 for tearing the perforated sheet starts near the beginning of the transverse burster, and the termination point 106 of the tearing of the perforated sheet ends near the end of the transverse burster. As stated at col. 6, lines 28-30 of Rutherford, the sheet guide 40, which guides the continuous perforated sheet across the transverse burster 38, has “a smooth inner surface 80 for allowing perforated sheet 10 to travel easily.”

Therefore, since the separation of sheets of paper is started and completed as the perforated sheet continues to move across the transverse burster, it is important that the surface of the transverse burster be smooth to facilitate the travel of the continuous sheet of paper across the transverse burster. Adding a roughened surface to any part of the transverse burster would hinder the movement of the continuous perforated sheet across the transverse burster, thereby making the device of Rutherford unsatisfactory for separating a large number of sheets of paper from a continuous perforated sheet of paper. This is probably the reason Rutherford makes no mention of roughening the surface of the transverse burster. For these reasons, Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of claims 1-3, 5-7, 19-24, and 27 be removed and the claims allowed to issue.

CONCLUSION

Applicants have made an earnest and *bona fide* effort to clarify the issues before the Examiner and to place this case in condition for allowance. Reconsideration and allowance of all of claims 1-3, 5-7, 19, 20, and 22-29 is believed to be in order, and a timely Notice of Allowance to this effect is respectfully requested.

The Commissioner is hereby authorized to charge the fees indicated in the Fee Transmittal, any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17, or to credit any overpayments, to Deposit Account No. 194293, Deposit Account Name STEPTOE & JOHNSON LLP.

Should the Examiner have any questions concerning the foregoing, the Examiner is invited to telephone the undersigned attorney at (310) 734-3200. The undersigned attorney can normally be reached Monday through Friday from about 9:00 AM to 6:00 PM Pacific Time.

Respectfully submitted,

Date: February 29, 2008

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